



Proposed Regulation Agency Background Document

Agency name	Department of Environmental Quality
Virginia Administrative Code (VAC) citation	9 VAC 20 -80 Repeal 9 VAC 20-101 Repeal 9 VAC 20-81 Adopt
Regulation title	Virginia Solid Waste Management Regulations
Action title	Consolidation of 9 VAC 20-80-10 et seq. and 9 VAC 20-101-10 et seq. under new codification " Amendment 7"
Date this document prepared	December 8, 2008

This information is required for executive branch review and the Virginia Registrar of Regulations, pursuant to the Virginia Administrative Process Act (APA), Executive Orders 36 (2006) and 58 (1999), and the *Virginia Register Form, Style, and Procedure Manual*.

Brief summary

In a short paragraph, please summarize all substantive changes that are being proposed in this regulatory action.

The agency proposes to recodify the Virginia Solid Waste Management Regulation (VSWMR) 9 VAC 20-80 into a more cohesive and concise regulation. The recodified regulation will be 9 VAC 20-81. This proposed regulation includes the incorporation of the Vegetative Waste Management and Yard Waste Composting Regulation, 9 VAC 20-101. Other substantive changes include provisions for a pre-approved alternate liner design that does not require a variance submission; a pre-approved alternate cover design without a demonstration; consolidation of related topics; consolidation of exemptions into one section; the addition of standards for Centralized Waste Treatment facilities; revisions have made to conform to existing statutes; the unauthorized waste control program is moved to the operation section of each type of facility; citation to the federal regulations where feasible; composting and other types of facilities that are higher in the waste hierarchy will have less imposing standards; change from full permit to permit by rule status for composting facilities; and removal of operations manual from the permit.

Also, in general, the regulations are revised to reflect future "streamlined" permits supplemented by more easily updated separate plan documents (operations, etc.).

Legal basis

Please identify the state and/or federal legal authority to promulgate this proposed regulation, including (1) the most relevant law and/or regulation, including Code of Virginia citation and General Assembly chapter number(s), if applicable, and (2) promulgating entity, i.e., the agency, board, or person. Describe the legal authority and the extent to which the authority is mandatory or discretionary.

The legal basis for the Virginia Solid Waste Management Regulations (9 VAC 20-80) and the Vegetative Waste and Yard Waste Composting Regulations (9 VAC 20-101) is the Virginia Waste Management Act (Chapter 14 of the Code of Virginia). Specifically §10.1 1402 and 10.1 1408.1 authorizes the Board to supervise and control waste management activities in the Commonwealth and to promulgate regulations necessary to carry out its powers and duties. The corresponding federal authority for the criteria for municipal solid waste landfills is found at 40 CFR Part 257 and 258. The federal authority for municipal solid waste landfills is mandatory. The state legal authority for all other types of facilities is also mandatory.

Purpose

Please explain the need for the new or amended regulation by (1) detailing the specific reasons why this regulatory action is essential to protect the health, safety, or welfare of citizens, and (2) discussing the goals of the proposal, the environmental benefits, and the problems the proposal is intended to solve.

The proposed regulation is needed to coordinate waste management practices with statute amendments, other agencies and other programs, and to address issues and questions that have arisen since the regulations were last modified. The current solid waste regulation is cumbersome as the result of several amendments which were not able to address the cohesiveness of the regulation as a whole. This amendment is intended to concentrate on clarity, conciseness of writing, and efficiency of the entire structure of the regulation while retaining compatibility with EPA program approval and statutory requirements. The purpose of this amendment is to review each section of the regulation for clarity and complexity in order to transform it into a standard that is easier for the public and regulated community both to read and to follow. The goals of this amendment are to improve standards, focus on results oriented requirements where feasible, make the regulations clear and enforceable and to provide less burdensome requirements for those types of facilities that divert waste from landfills while still protecting the public health, public safety, the environment, and natural resources.

Substance

Please briefly identify and explain the new substantive provisions, the substantive changes to existing sections, or both where appropriate. (More detail about these changes is requested in the "Detail of changes" section.)

The agency proposes to incorporate the Vegetative Waste and Yard Waste Composting Regulations into the Virginia Solid Waste Management Regulations and to recodify the Virginia Solid Waste Management Regulations, 9 VAC 20-80 into 9 VAC 20-81. The agency also proposes to include the consolidation of related topics, revisions to conform to existing statutes, the consolidation of exemptions and exclusions into one section, inclusion of the unauthorized waste control program in the operation section of each type of solid waste facility to eliminate confusion, citation to the Federal Solid Waste Regulations where feasible, consolidation of details about beneficial use demonstrations, consolidation of Sanitary, Industrial,

and Construction-Demolition-Debris (CDD) disposal facility standards, and consolidation of Solid Waste Storage and Treatment facility standards. New standards for centralized sludge treatment facilities are added, permit modifications are streamlined, statutory provisions are incorporated where feasible, and a pre-approved alternate liner has been added to eliminate the variance process for those alternate liners routinely approved. Also composting permitting requirements are made less burdensome to encourage these types of activities.

Issues

Please identify the issues associated with the proposed regulatory action, including:

- 1) the primary advantages and disadvantages to the public, such as individual private citizens or businesses, of implementing the new or amended provisions;*
- 2) the primary advantages and disadvantages to the agency or the Commonwealth; and*
- 3) other pertinent matters of interest to the regulated community, government officials, and the public.*

If the regulatory action poses no disadvantages to the public or the Commonwealth, please so indicate.

The proposed actions make the regulations easier to read and research for both private citizens and businesses. A major advantage to the agency and the regulated community are the proposed streamlined permitting review procedures that will result in improved efficiency of available Department resources. One potential issue that may arise will include the education and training of staff and the regulated community to understand the recodification of the current regulation from 9 VAC 20-80 to 9 VAC 20-81. Guidance and reference documents are being developed to address this issue. There are no potential disadvantages to the public or the Commonwealth from adopting the proposed amendments

Requirements more restrictive than federal

Please identify and describe any requirement of the proposal which are more restrictive than applicable federal requirements. Include a rationale for the need for the more restrictive requirements. If there are no applicable federal requirements or no requirements that exceed applicable federal requirements, include a statement to that effect.

The RCRA Subtitle D program is not a program that is enforced directly by USEPA. It includes a basic solid waste management program with many state options that are adopted and administered by the states. The Federal program has not developed standards for facilities that are not municipal solid waste management facilities; Virginia regulates CDD, industrial landfills, incinerators and other solid waste facilities. The proposed amendment maintains compatibility with EPA program approval for Subtitle D facilities and contains requirements for non-Subtitle D facilities, which are broader in scope than Federal requirements.

Localities particularly affected

Please identify any locality particularly affected by the proposed regulation. Locality particularly affected means any locality which bears any identified disproportionate material impact which would not be experienced by other localities.

No localities are known to be particularly impacted by these regulations.

Public participation

Please include a statement that in addition to any other comments on the proposal, the agency is seeking comments on the costs and benefits of the proposal, the impacts on the regulated community and the impacts of the regulation on farm or forest land preservation.

In addition to any other comments, the board/agency is seeking comments on the costs and benefits of the proposal, the potential impacts of this regulatory proposal and any impacts of the regulation on farm and forest land preservation. Also, the agency/board is seeking information on impacts on small businesses as defined in § 2.2-4007.1 of the Code of Virginia. Information may include 1) projected reporting, recordkeeping and other administrative costs, 2) probable effect of the regulation on affected small businesses, and 3) description of less intrusive or costly alternative methods of achieving the purpose of the regulation. **The agency is also seeking specific comments on increasing the distance that a disposal unit or leachate collection unit may be sited from a perennial stream or river from 100 feet to 500 feet.**

Anyone wishing to submit written comments may do so at the public hearing or by mail, email or fax to Leslie Beckwith, 629 E Main Street, Richmond, VA 23219, phone number 804-689-4123, fax number 804-698-4327, ldbeckwith@deg.virginia.gov. Comments may also be submitted through the Public Forum feature of the Virginia Regulatory Town Hall web site at www.townhall.virginia.gov. Written comments must include the name and address of the commenter. In order to be considered comments must be received by 5:00 p.m. on the date established as the close of the comment period.

A public hearing will be held and notice of the public hearing will appear on the Virginia Regulatory Town Hall website (www.townhall.virginia.gov) and can be found in the Calendar of Events section of the Virginia Register of Regulations. Both oral and written comments may be submitted at that time.

Economic impact

Please identify the anticipated economic impact of the proposed regulation.

Projected cost to the state to implement and enforce the proposed regulation, including (a) fund source / fund detail, and (b) a delineation of one-time versus on-going expenditures	The state program is ongoing and may benefit from increased efficiencies; however, these are unpredictable at this time.
Projected cost of the regulation on localities	No net increase in costs to localities from the historical costs associated with this regulation are anticipated.
Description of the individuals, businesses or other entities likely to be affected by the regulation	Owners and operators of solid waste landfills and other solid waste management units.
Agency’s best estimate of the number of such entities that will be affected. Please include an estimate of the number of small businesses affected. Small business means a business entity, including its affiliates, that (i) is independently owned and operated and (ii) employs fewer than 500 full-time employees or has gross annual sales	One hundred-forty-four to two hundred-twenty-two landfills (if closed facilities are included) will be involved. Out of these totals, 130 landfills are municipal or county government-owned and another 92 landfills are owned by private concerns. Forty-five percent of the privately owned landfills are small business as incorporated; however, some

<p>of less than \$6 million.</p>	<p>are part of larger multi-state firms.</p>
<p>All projected costs of the regulation for affected individuals, businesses, or other entities. Please be specific. Be sure to include the projected reporting, recordkeeping, and other administrative costs required for compliance by small businesses.</p>	<p>This action will not have a significant economic impact on municipalities, individuals, small (or other) businesses, or other entities. The purpose of this amended regulation is to clarify existing provisions and to facilitate permit process streamlining while ensuring the regulations remain equally protective of human health and the environment.</p> <p>The majority of the clarifications of existing provisions, the reorganization of regulatory structure, and improvements in permit streamlining will result in a cost savings for both the department and the regulated community. Some of these changes include reduced testing requirements for composting facilities and the ability for all composting facilities to qualify for permit by rule status. In addition, the creation of a stand-alone operations manual and a reduction in circumstances requiring major permit modifications will increase permitting efficiency reducing costs for both the department the regulated community.</p> <p>One of the priority goals of this regulatory action was to shift to outcome-based standards wherever feasible. The proposed regulation includes a new requirement for landfills to collect wind blown litter on a weekly basis. The current regulations include a requirement to implement controls to prevent the migration of wind blown litter. However, the available controls many times do not prevent the dispersion of wind blown litter during the daily disposal activities. The current regulations do not contain a requirement to collect the litter that has evaded the control measures taken by the facility. This revision is necessary to achieve an outcome based standard to appropriately manage litter collection.</p> <p>The proposed regulation also includes clarifications for standards in the groundwater monitoring section. The first change clarifies what must be included in the contents of semiannual or quarterly groundwater monitoring reports. In the current regulations these reports are required, but no detail is provided regarding the necessary content of these reports. This has resulted in facilities providing the department with large volumes of information for review. The proposed regulation establishes minimums for these semiannual or quarterly reports which should represent a cost savings for both the department and the regulated community due to reduced volume and review of submitted material. The proposed regulations also</p>

	<p>allow the 4th quarterly report or 2nd semiannual report to be combined with the annual groundwater monitoring report. In addition, the proposed regulation removes the March 1st deadline for annual groundwater monitoring reports for all facilities and instead requires annual groundwater monitoring reports within 120-days from the completion of sampling and analysis conducted for either the 2nd semiannual or 4th quarter sampling events. This will reduce workloads for permittees with multiple facilities, consulting firms, and the department's groundwater review staff by spreading report submission over several months..</p> <p>The second revision to the groundwater monitoring section includes the removal of the Phase I and modified Phase I groundwater monitoring programs. This will result in a cost savings for the majority of affected facilities. The current regulations include a modified Phase I monitoring program that typically results in a monitoring program whose annual costs are greater than simply proceeding to Phase II monitoring. The proposed regulation removes the modified Phase I groundwater monitoring program and establishes the First Determination Monitoring Program (formerly Phase II) as the minimum monitoring program for State monitoring, CDD, and Industrial Landfills. The proposed regulation also allows for the permittee to request the director delete any constituents from the semi-annual sampling list if the owner or operator demonstrates that the proposed deleted constituents are not reasonably expected to be in or derived from the waste which will result in further reduced cost for the affected regulated community. A small number of permittees currently monitoring under the Phase I monitoring program may experience an increased cost of analysis. However, these permittees may benefit from the ability to reduce the number of constituents monitored under the First Determination Monitoring Program reducing the analytical cost increase to a minimal amount.</p> <p>The proposed regulation removes the existing Phase I monitoring program due to outdated monitoring constituents. The existing Phase I monitoring program only includes indicator parameters of potential contamination versus the proposed list of constituents of waste and has resulted in many facilities triggering an exceedance of these indicator parameters. The proposed regulation removes the expense of additional analysis by removing the Phase I indicator parameters in exchange for a monitoring program based on constituents of waste.</p>
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Alternatives

Please describe any viable alternatives to the proposal considered and the rationale used by the agency to select the least burdensome or intrusive alternative that meets the essential purpose of the action. Also, include discussion of less intrusive or less costly alternatives for small businesses, as defined in §2.2-4007.1 of the Code of Virginia, of achieving the purpose of the regulation.

The agency reviewed the burden of this regulatory action and determined the only viable action was to amend these regulations to allow for the changes necessary for the solid waste program. These concepts were discussed and reviewed with the Technical Advisory Committee. In many cases, the only alternative appears to be one of no action which would not meet the goals to improve standards, focus on results oriented requirements where feasible, make the regulations clear and enforceable and to provide less burdensome requirements for those types of facilities that divert waste from landfills while still protecting the public health, public safety, the environment, and natural resources.

Regulatory flexibility analysis

Please describe the agency's analysis of alternative regulatory methods, consistent with health, safety, environmental, and economic welfare, that will accomplish the objectives of applicable law while minimizing the adverse impact on small business. Alternative regulatory methods include, at a minimum: 1) the establishment of less stringent compliance or reporting requirements; 2) the establishment of less stringent schedules or deadlines for compliance or reporting requirements; 3) the consolidation or simplification of compliance or reporting requirements; 4) the establishment of performance standards for small businesses to replace design or operational standards required in the proposed regulation; and 5) the exemption of small businesses from all or any part of the requirements contained in the proposed regulation.

This proposed amendment includes the establishment of less stringent compliance or reporting requirements; the establishment of less stringent schedules or deadlines for compliance or reporting requirements; the consolidation or simplification of compliance or reporting requirements and the establishment of performance standards for small businesses.

Public comment

Please summarize all comments received during public comment period following the publication of the NOIRA, and provide the agency response.

Commenter	Comment	Agency response
Alan Raflo	It is difficult to find the complete NOIRA—that is, the “Agency Background Document”—online. The Virginia Register of Regulations entry has only a small portion of the Agency Background Document, and that portion does not emphasize the aspect of the NOIRA regarding changes to make the regulations “less burdensome” (in the “Need” section of the Agency Background Document).	This comment will be forward to the Department of Planning and Budget for their review.
Larry Bertolet	Was able to find the General, Chapter and Stage information, but unable to locate the “Agency Background Document” online. Shouldn’t have to call to have a copy of the document emailed.	This comment will be forward to the Department of Planning and Budget for their review.
Lisa Smith Rodriguez Craig Coker Bob Broom Mindy Jones	<u>9 VAC 20-80-320. General</u> C. Closure. Requiring other solid waste management facilities to comply with 9 VAC 20-70 Financial Assurance Regulations. The Financial Assurance regulations are in serious need of updating and modification, and I urge VA DEQ to consider amending those regulations as well (see below).	The financial assurance regulations are not part of this amendment however this comment will be forwarded to the Office of Regulatory Affairs.
Lisa Smith Rodriguez Craig Coker Mindy Jones	<u>9 VAC 20-80-330. Compost Facilities</u> A. General. I recommend VA DEQ combine the regulations under 9 VAC 20-101-10, <i>et. seq.</i> (Vegetative Waste Management and Yard Waste Composting Regulations) into this section to facilitate conciseness and consistency.	This comment was accepted and the Vegetative Waste Management And Yard Waste Composting Regulations (9 VAC 20-101) have been incorporated into the proposed Amendment 7 of VSWMR.

<p>Lisa Smith Rodriguez</p> <p>Craig Coker</p> <p>Mindy Jones</p>	<p>C.2. Design/Construction. Increase the minimum tonnage for requiring a hardened compost pad for Category I, II, or III materials from 700 tons per calendar quarter to 3,000 tons per calendar quarter, provided the permit applicant can demonstrate that depth to the seasonal high ground water table exceeds 2 feet and that soil texture is finer than a loamy sand, and that the pad is graded so that runoff flows to a permitted storm water management system.</p>	<p>The requirement for a hardened compost pad at a rate greater than 700 tons per quarter for facilities that accept only Category I or II feedstocks has been removed in the proposed regulation, unless the facility is located in any area where the seasonal high water table lies within two feet of the ground surface. The requirement for a hardened compost pad at facilities which accept Category III feedstocks has been increased to 2000 cubic yards per quarter. All compost facilities that accept Category IV feedstock are required to have a hardened compost pad.</p>
<p>Lisa Smith Rodriguez</p> <p>Craig Coker</p> <p>Mindy Jones</p>	<p>D.2.b. Pathogens (testing for in final product). Allow permit holders to reduce testing frequency requirements for <i>Ascaris</i> ova to once per year who demonstrate four (4) consecutive quarters of no detectable viable ova and who certify that the source of <i>Ascaris</i> (i.e. municipal biosolids, septage, or materials contaminated by sanitary wastewaters) are not accepted for composting at the composting facility during the preceding twelve-month period.</p> <p>Testing for <i>Ascaris</i> is very expensive (\$300 each) and requires two-to-three weeks to get results. If composters are not allowed to distribute product while waiting for lab results to return, and there is no evidence of historical <i>Ascaris</i> presence in their compost product(s), then the multi-week delay for test results can result in significant market impact to producers, as large-volume users (such as the Virginia Department of Transportation) may elect to source compost, or compost-based specialty soils, elsewhere.</p>	<p>The proposed regulation reduces the requirements for Pathogen and Parasite testing to be more consistent with federal rule 503. The proposed regulation requires testing of viable helminth ova density for composting facilities that accept Category III or IV feedstocks. The proposed regulation allows the viable helminth ova reduction to be demonstrated for the composting process, additional helminth ova testing will not be required provided the composting operating parameters and incoming waste stream are consistent with the values or ranges of values documented during the initial helminth ova reduction demonstration.</p>
<p>Lisa Smith Rodriguez</p>	<p>E. Closure. <u>All</u> composting facilities, including those composting mainly (or solely)</p>	<p>Composting facilities that accept sewage sludge or combinations of sewage sludge and other solid wastes that are permitted by DEQ</p>

<p>Craig Coker Mindy Jones</p>	<p>Category IV sewage sludge wastes, should be required to comply with both these closure requirements, as well as the Financial Assurance requirements under 9 VAC 20-70-10, <i>et. seq.</i> Requiring this of solid waste composting facilities without requiring it of biosolids composting facilities is inherently discriminatory, and senseless, as biosolids composting facilities have as much potential for environmental and public health damage as do solid waste composting facilities.</p>	<p>Virginia Pollution Abatement (VPA) or Virginia Pollution Discharge Elimination System (VPDES) programs will be exempt from the requirements of the proposed regulation. This comment was forwarded to the Office of Land Application to address the financial assurance requirements for composting operations permitted by either VPA or VPDES programs.</p>
<p>Lisa Smith Rodriguez Craig Coker Mindy Jones</p>	<p>While the specific aspects of 9 VAC 20-70-10, <i>et. seq.</i> are external to this current regulatory action to amend 9 VAC 20-80-10 <i>et. seq.</i>, it is recommended that VA DEQ consider modifying the financial assurance requirements for composting facilities to: 1) reflect the reality that all material on a composting pad is not a solid waste for the purposes of closure cost estimating; 2) modify requiring closure cost estimates to assume that all collected storm water be pumped out and hauled to a wastewater treatment plant, which is unnecessary and fails to recognize the water quality benefits of storm water Best Management Practices; 3) modify requiring composting facilities to post trust fund financial assurance equal to the total cost estimate of closure before receiving an operating permit, which is both extremely expensive and unfair, given that sanitary landfills have a 30-year period to fund a trust fund for financial assurance; 4) modify the requirements for insurance and bonding companies to allow them to terminate coverage for reasons other than non-payment of premium (this provision has made these two options virtually unavailable to composters).</p>	<p>The financial assurance regulations are not part of this amendment however this comment will be forwarded to the Office of Regulatory Affairs</p>

<p>Lisa Smith Rodriguez</p> <p>Craig Coker</p> <p>Bob Broom</p> <p>Mindy Jones</p>	<p><u>9 VAC 20-80-485. Permits By Rule and other special permits</u></p> <p>A.4. Composting Facilities. Increase the allowable tonnage for processing under a permit by rule (PBR) to 3,000 tons per calendar quarter. The current threshold of 700 tons per quarter is simply not enough potential tipping fee revenue to support the development and expansion of the private-sector solid waste composting industry.</p>	<p>This comment was accepted in part. There is no tonnage requirement in the proposed amendment for a PBR for composting facilities.</p>
<p>Lisa Smith Rodriguez</p> <p>Craig Coker</p> <p>Bob Broome</p> <p>Mindy Jones</p>	<p><u>9 VAC 20-80-500. Permit Application Procedures</u></p> <p>D. Part B application. Modify the language “after receiving Part A approval”; to allow composting facilities to proceed with their Part B applications <i>while</i> VA DEQ is considering a complete Part A application. As the completed Part A application contains the local government certification (Form SW 11-1), there is no conflict with local government solid waste management planning. Thus, the only risk is to the applicant for proceeding with design engineering while the siting approval by VA DEQ is underway. Should VA DEQ decide not to issue the Part A approval, then there is some risk of loss, but this would be vastly overshadowed by the benefits of shortening the whole permitting process timeline.</p>	<p>The department has evaluated this comment and proposed no change. The department currently allows concurrent processing of both the Part A and Part B applications in warranted situations. However, the permit may not be issued until both the Part A and Part B applications are approved.</p>
<p>Lisa Smith Rodriguez</p> <p>Craig Coker</p> <p>Mindy Jones</p>	<p>Permit Fees (9 VAC 20-90-10, <i>et. seq</i>) - While the specific aspects of 9 VAC 20-90-10, <i>et. seq.</i> are external to this current regulatory action to amend 9 VAC 20-80-10 <i>et. seq.</i>, it is recommended that VA</p>	<p>The Permit Fee regulation is not part of this amendment however this comment will be forwarded to the Office of Regulatory Affairs.</p>

	<p>DEQ consider modifying the permit application fees for composting facility Part A applications (currently \$4,180) and Part B applications (from \$6,850 to \$12,670 depending on waste categories) to more accurately reflect VA DEQ's actual costs of reviewing permit applications. These permit fees are excessively high, compared to other states, and are another obstacle to the development and growth of the solid waste composting industry in Virginia.</p>	
<p>Lisa Smith Rodriguez Craig Coker Mindy Jones</p>	<p>Waste Management Facility Operator Regulations (18 VAC 155-20-10, <i>et seq.</i>) – While it is appropriate for Virginia to require licensed (and trained) operators at waste management facilities, there is a critical need to provide specialized training for compost facility operators that reflects the unique nature of the composting process. I received my Class II Waste Management Facility Operator License in 2007 (No. 4605 002846) and in four days of intensive (and expensive) classroom training received no useful training on how to operate a composting facility. There are numerous specialized courses on compost facility operator training available in the U.S., and VA DEQ should consider working with the Virginia Department of Occupational and Professional Regulation (DPOR) to allow license applicants to substitute one or more of these specialized courses as suitable and equivalent education for licensing purposes.</p>	<p>This comment will be forwarded to the Virginia Department of Occupational and Professional Regulation (DPOR). DEQ does not have the authority to make changes to the Waste Management Facility Operator Regulations, 18 VAC 155-20-10.</p>
<p>Bob Broome</p>	<p><u>9 VAC 20-80-330. Compost Facilities</u> E. Closure. Is it safer to store sludge and MSW permanently in a lined landfill or would your engineering instincts favor processing in an indoor composting facility to produce a beneficial</p>	<p>The current and proposed regulations do not require long term monitoring during or after closure of a composting facility unless solid wastes remain closed in place or potentially if the facility is determined to be an Open Dump. All composting facilities are required to conduct closure activities if operations cease at the permitted location. These</p>

	<p>product under 503 rules is safe to sell to the public. Clearly to protect the water supply landfills of all colors need long term monitoring. This should not be required of composting facilities where nothing is permanently stored and additionally they are designed to operate with zero discharges. Certainly, I would recommend review of the run-off requirements and if they are inadequate change them, otherwise, this requirement unnecessarily burdens composting with costs when there is no danger.</p>	<p>activities are necessary to remove solid waste and solid waste residues from the facility, but do not include long term monitoring unless solid wastes remain closed in place or the facility is determined to be an Open Dump.</p>
Terri Philips	<p>9VAC20-80-300.B.3.d(1), 9VAC20-80-300.B.3.g, and 9VAC20-80-300.C.4.e.(3) – clarify how verification resampling is to be handled. In the past, DEQ wanted the 14-day notifications made after receipt of all analytical data for an event, inclusive of resampling data. Now, some regions want the 14-day notifications after receipt of the initial data package, and another notification after the verification sampling. We'd recommend the former.</p>	<p>The proposed regulation clarifies the timeframes for both the 14-day notification and verification resampling.</p>
Terri Philips	<p>9VAC20-80-300.B.3.g and 9VAC20-80-300.C.4.e.(3) – clarify whether a statistical comparison to the Groundwater Protection Standard (GPS) (using a minimum of 4 data points) constitutes an Alternate Source Demonstration (ASD). We do not think it does; however, at least one region interprets these regulations as requiring a statistical comparison to GPS to be treated as an ASD.</p>	<p>This comment was accepted in part. The requirements for an ASD submittal are clarified; however, the specific concerns as noted by this commenter are not included as this would be an issue to handle by agency guidance, and not regulatory changes.</p>
Terri Philips	<p>9VAC20-80-300.C.4.b(4) and 9VAC20-80-300.C.5 – modify so that the Modified Sampling Program is an option, not a required step. According to DEQ during the Amendment 3 process, the Modified Sampling Program was intended to be a less strict (than Phase II) program for those sites that would bounce back and forth between Phase I and Phase II programs. However, as written, the Modified Sampling Program is</p>	<p>This comment was accepted, in part. The proposed regulation deletes the Phase I and modified Phase I program. The proposed regulation establishes a new monitoring program (First Determination Monitoring) which should prevent facilities from bouncing between two levels of groundwater monitoring. The new monitoring program allows facilities to request the director delete any constituents from the semi-annual sampling list if the owner or operator demonstrates that the proposed deleted constituents are not reasonably expected to</p>

	<p>more expensive to implement than Phase II. Alternatively, modify the requirements of the Modified Sampling Program so that it is not actually more burdensome than Phase II (changes to 9VAC20-80-300.C.5.b).</p>	<p>be in or derived from the waste which should achieve the original goal of the modified Phase I program and reduce cost.</p>
Terri Philips	<p>Also, I'd recommend modifying the applicability language in 9VAC20-80-300.B.1.e to be consistent with the AG's opinion on this matter, especially as more landfills affected by this section close. Basically, a landfill that <i>had been</i> subject to quarterly monitoring under this provision is no longer required to be monitored quarterly after it ceases to accept waste.</p>	<p>This comment was accepted and the proposed regulation clarifies the quarterly monitoring required by this section will no longer be required following cessation of waste.</p>
Noel Lyons	<p>We recommend the existing 2-stage Part A-B permitting process be changed to a single step process whilst simultaneously establishing a higher level of relevant controls. Existing zoning regulations address most, if not all, of the issues that Part A covers.</p>	<p>The department has evaluated this comment and proposed no change. The Part A application addresses a large number of topics not covered by existing zoning regulations. The Part A application includes a detailed subsurface investigation of the proposed location including an evaluation of the geologic, seismic, and hydrogeologic conditions. In addition the Part A application verifies compliance with siting standards commonly not replicated in zoning regulations including those contained in the Waste Management Act. The Part B portion of the permit application is focused on the design, construction, operation, and closure of the facility. The Part A (site suitability) and Part B (design/construction/operation/closure) of the application address two very different subjects and require two different skill sets for the department's review. Therefore, it is both more efficient and logical to maintain the Part A and Part B process.</p>
Noel Lyons	<p>We recommend the following stipulations are part of a single pass permitting process:</p> <ol style="list-style-type: none"> 1. Biosolids and putrescent materials must be handled in a controlled environment (within a building or an in-vessel technology) 2. All composting and storage must be conducted on an impermeable surface with 	<ol style="list-style-type: none"> 1. The proposed regulation exempts the composting of sewage sludge (including biosolids) if permitted by DEQ VPA or VPDES programs. This comment has been provided to the Office of Land Application. 2. The current and proposed regulations include provisions for maximum permeability of composting pads for facilities that accept Category IV or over an established tonnage per quarter of Category II or III feedstocks.

	<p>proper storm water containment to ensure a negative impact on the local environment</p> <p>3. A reasonable technology to control odor must be in place</p> <p>4. The existing EPA 503 pathogen control protocols should remain</p>	<p>3. The current and proposed regulations require all composting facilities to control odors so they do not constitute nuisances or hazards.</p> <p>4. The proposed regulation includes pathogen and parasite testing for facilities that accept Category II or IV feedstocks.</p>
Greg Evanylo	<p>I would like to recommend that one regulation be developed to include all composting rules (i.e., vegetative waste reg and solid waste reg). These should be separate from the solid waste regulation to enhance clarity and ease of use for the industry.</p>	<p>This comment was accepted and the Vegetative Waste Management And Yard Waste Composting Regulations (9 VAC 20-101) have been incorporated into the proposed Amendment 7 of VSWMR. New sections 9 VAC 20-81-310 A,</p>

Family impact

Please assess the impact of the proposed regulatory action on the institution of the family and family stability including to what extent the regulatory action will: 1) strengthen or erode the authority and rights of parents in the education, nurturing, and supervision of their children; 2) encourage or discourage economic self-sufficiency, self-pride, and the assumption of responsibility for oneself, one’s spouse, and one’s children and/or elderly parents; 3) strengthen or erode the marital commitment; and 4) increase or decrease disposable family income.

No impact on the institution of the family and family stability is anticipated with this amendment.

Detail of changes

Please detail all changes that are being proposed and the consequences of the proposed changes. Detail all new provisions and/or all changes to existing sections.

If the proposed regulation is intended to replace an emergency regulation, please list separately (1) all changes between the pre-emergency regulation and the proposed regulation, and (2) only changes made since the publication of the emergency regulation.

For changes to existing regulations, use this chart:

Current section number	Proposed new section number, if applicable	Current requirement	Proposed change and rationale
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Part I	Part I	Definitions	This part contains the definitions for terms used in this regulation.
9 VAC 20-80-10	9 VAC 20-81-10	Definitions	Some definitions were clarified and several definitions were added to specify facility boundaries and capacity.
Part II & III	Part II	General Information	This part contains the waste hierarchy and also describes the authority for the regulation, purpose of chapter, prohibitions, open dump criteria, enforcement policy, statutory reporting requirements of the department, the identification of solid waste and the requirements for obtaining a beneficial use demonstration.
80-20	N/A	Reserved	Deleted as not necessary.
80-30	81-20	Policy	For consistency Recycling was added to reflect the Waste hierarchy as defined in the Solid Waste Planning and Recycling regulations. Section was recodified. No other changes.
80-40	81-25	Purpose of Chapter	Explains the purpose of these regulations. Section was recodified. No other changes.
80-50	81-30	Administration of Chapter	This section explains the statutory authority and also describes the role of the Waste Management Board and the Director. Section was recodified. No other changes.
80-60	81-35	Applicability of chapter	Explains the types of facilities and persons who are required to comply with these regulations. Also provides a table with those facilities subject to the prioritization schedule in accordance with 10.1 1413.2 of the Virginia Waste Management Act. Section was recodified. No other changes.
80-70	81-40	Prohibitions	Section was recodified. No other changes.
80-80	81-45	Open dumps	Reference to federal regulations where feasible. Section was recodified.
80-90	N/A	Unpermitted facilities	Deleted as not necessary, included in 81-40.
80-100	81-50	Enforcement and appeal	Section was recodified. No other changes.
80-105	81-60	Ten-year permit review	Section was recodified. No other changes
80-110	81-70	Public participation	Because of budget constraints, removed requirement for newspaper notice of enforcement actions and maintained notice of such actions on department's website. Section was recodified.
80-113	deleted	Control Program for unauthorized waste	Section 113 is deleted here and included in sections 81-100 E, 140, 300 E and 340.
80-115	81-80	Solid Waste Information and Assessment Program	Section was recodified. No other changes.
80-120	81-90	Relationship with other regulations promulgated by the Virginia Waste Management Board	Deleted reference to Vegetative waste regulations because it is incorporated into this amendment. Section was recodified.
80-60 E, 130, 140, 150, 160; 20-85, 9	81-95	Identification of Solid Waste	Exemptions, conditional exemptions and exclusions that were previously spread throughout the regulation have been consolidated into this section. References to

VAC 20-101			federal regulations have been made where feasible. Addition of onsite composting of vegetative and yard waste composting, vermicomposting, onsite composting of animal carcasses at the farm of generation, composting of pre consumer food waste generated on site. Section was recodified.
80-150	81-97	Beneficial Use Demonstrations	No change in requirements, made its own section for clarity. Section was recodified.
Part V	Part III	Solid Waste Disposal Facility Standards	This part describes the siting, design and construction, operation, closure, post closure, gas monitoring, leachate control, groundwater monitoring and corrective action requirements for all disposal facilities; i.e. Sanitary, Construction/Demolition/Debris (CDD) and Industrial Waste Landfills. Requirements for Sanitary landfills remain the same due to program approval requirements from EPA.
80-240	81-100	General (Disposal facilities)	Description of general requirements for disposal facilities. Also includes control program for unauthorized waste requirements for disposal facilities. Section has been recodified.
N/A	81-110	Applicability	New section. Provides that this section applies to Sanitary, Construction/Demolition/Debris (CDD) and Industrial Waste Landfills.
80-250 A, 260 A, 270 A	81-120	Siting requirements for disposal facilities	Consolidation of sections 80-250 A, 260 A, and 270 A. This section outlines the siting requirements for the three types of disposal facilities.
80-250 B, 260 B, 270 B	81-130	Design and Construction Requirements for disposal facilities	Consolidation of sections 80-250 B, 260 B, 270 B. This section outlines the design and construction requirements for the three types of disposal facilities. Included pre-approved alternate liner. Added alternate liner demonstration process (currently a variance request).
80-113, 250 C, 260 C, 270 C	81-140	Operation Requirements for disposal facilities	Consolidation of sections 80-250 C, 260 C, 270 C. This section outlines the operation requirements for the three types of disposal facilities. Clarified operation standards to make them more performance based.
80-250 E, 260 E, 270 E	81-160	Closure Requirements for disposal facilities	Consolidation of sections 80-250 E, 260 E, 270 E. This section outlines the closure requirements for the three types of disposal facilities. Revised section so that it follows the order in which the closure requirements must be met. Also includes pre-approved alternate final cover that will not require demonstration to the department.
80-250 F, 260 F,	81-170	Post Closure Requirements for disposal facilities	Consolidation of sections 80-250 F, 260 F, 270 F. This section outlines the post closure

270 F			requirements for the three types of disposal facilities. Also clarifies termination of post-closure care.
80-280	81-200	Control of Decomposition Gases	Section was recodified. No other changes
80-290	81-210	Leachate Control	Addition of seep control. Section was recodified.
80-250 D, 260 D, 270 D	81-250	Groundwater Monitoring Program	Revised section so that it is easier to read and follow, eliminated Phase 1 and modified Phase 1 monitoring as obsolete. Clarified reporting timeframes and report content to reduce the reporting burden on facilities. Added Alternate Concentration Level (ACL) approval process (currently a variance request).
80-310	81-260	Corrective Action Program	Clarified that Subtitle D landfills are not eligible for presumptive remedy. Section was recodified.
Part VI	Part IV	Other Solid Waste Management Facility Standards	This part describes the siting, design and construction, operation, closure, and recordkeeping requirements for storage and treatment facilities. This includes transfer stations (TS), solid waste composting facilities, materials recovery facilities (MRFs), Centralized Waste Treatment Facilities (CWT), Waste to Energy and Incineration Facilities, Surface Impoundments and Lagoons and Waste Piles.
80-320	81-300	General (storage and treatment facilities)	Description of general requirements for storage and treatment facilities. Also includes control program for unauthorized waste requirements for these facilities. Section has been recodified.
80-330 A, 340 A, 350 A, 360 A, 370 A, 400 A	81-310	Applicability	Consolidation of sections 80-330 A, 340 A, 350 A, 360 A, 370 A, 400 A. Provides that this section applies to Solid Waste Compost Facilities, Solid Waste Transfer Stations, the addition of Centralized Waste Treatment Facilities (CWT), Materials Recovery Facilities, Waste to Energy and Incineration Facilities, Surface Impoundments and Lagoons and Waste Piles. Also clarifies compost categories and incorporates vegetative waste composting facilities. Section was recodified.
80-330 B, 340 B, 350 B, 360 B, 370 B, 400 B	81-320	Siting Requirements for storage and treatment facilities	Consolidation of sections 80-330 B, 340 B, 350 B, 360 B, 370 B, 400 B. This section outlines the siting requirements for storage and treatment facilities. Added siting standards for CWTs. Section was recodified.
80-330 C, 340 C, 350 C,	81-330	Design and Construction requirements for storage and treatment facilities	Consolidation of sections 80-330 C, 340 C, 350 C, 360 C, 370 C, 400 C. This section outlines the design and construction

360 C, 370 C, 400 C			requirements for storage and treatment facilities. Added design and construction requirements for CWTs. Section was recodified.
80-330 D, 340 D, 350 D, 360 D, 370 D, 400 D	81-340	Operation Requirements for storage and treatment facilities	Consolidation of sections 80-330 D, 340 D, 350 D, 360 D, 370 D, 400 D. This section outlines the operation requirements for storage and treatment facilities. Added design and construction requirements for CWTs. Section was recodified.
N/A	81-350	Recordkeeping requirements	New section. Added to clarify which recordkeeping requirements apply to storage and treatment facilities.
80-330 E, 340 E, 350 E, 360 E, 370 E, 400 E	81-360	Closure Requirements for Storage and treatment facilities	Consolidation of sections 80-330 E, 340 E, 350 E, 360 E, 370 E, 400 E. This section outlines the closure requirements for storage and treatment facilities. Added closure requirements for CWTs. Section was recodified.
80-380	81-370	Closure requirements for Surface Impoundments and Lagoons	Section was recodified. No other changes.
80-450	81-380	Remediation Waste Units	Section was recodified. No other changes.
80-460	81-385	Landfill Mining	Section was recodified. No other changes.
80-470	81-395	Miscellaneous Facilities	Section was recodified. No other changes.
	81-397	Exempt Facilities	New section. Added to incorporate the exempt facilities from the Vegetative Waste Management and Yard Waste Composting Regulation.
Part VII	Part V	Permitting of Solid Waste Management Facilities	This part outlines all of the requirements needed to obtain a permit or permit by rule for a solid waste management facility. It also clarifies the requirements of the stand alone operation manual, how a permit is denied, revoked, and modified. There are also sections describing how to appeal a denial and/or revocation of a permit as well as recordkeeping and reporting requirements of the permittee.
80-480	81-400	Applicability	Section was recodified. No other changes.
80-485	81-410	Permits-by-Rule and other special Permits	Clarified submittal requirements and Department administrative procedures. Removed RDD plans to section 600. Section was recodified.
80-490	81-430	Permit Conditions	Section was recodified.
80-500	81-450	Permit Application Procedures	Added State Corporation Commission certification by applicant. Also, to be consistent with the Administrative Process Act and other boards, increased time from 30 days to 90 days for decision by Director to permit, deny or modify a draft permit after close of the public hearing comment period. Section was recodified.
80-510	81-460	Part A Permit Application	Changed name of form from SW 7-3 to SW PTA. Section was recodified.

80-520	81-470	Part B Permit Application for Solid Waste Disposal Facilities	Added requirement for form SW PTB, removed operations manual from Part B application to make it a stand alone document that is not incorporated into the permit.
80-530 & 540	81-480	Part B Permit Application for other Solid Waste Management Facilities	Section was recodified. No other changes.
new	81-485	Operations Manual Requirements for Solid Waste Management Facilities	New section. Added to clarify requirements of stand alone operation manual.
80-550	81-490	Effect of the Permit	Section was recodified. No other changes.
80-570	81-530	Recording and Reporting Required of a Permittee	Section was recodified. No other changes.
80-580	81-550	Permit Denial	Section was recodified. No other changes.
80-590	81-560	Appeal of Permit Denial	Updated statutory citation. Section was recodified.
80-600	81-570	Revocation or Suspension of Permits	Added termination of permit after post closure has been terminated and permit termination if facility has not been constructed within five years of permit issuance (longer period may be approved).
80-610	81-580	Appeal of a Revocation of a Permit	Updated statutory citation. Section was recodified.
80-620	81-600	Modification of Permits	Reorganized Table 7.2 and renamed table 5.2. Revised wording from amendment to modification to be consistent with other DEQ programs. Inserted RDD plans from 485 to this section to eliminate confusion.
Part VIII	Part VI	Special Wastes	This part contains the requirements for certain wastes that require special handling.
80-630	81-610	General	Section was recodified. No other changes.
80-640	81-620	Asbestos containing wastes material	Reference to federal standards where feasible. Deleted requirements for asbestos waste preparation because the Department does not manage this activity. Section was recodified.
80-650	81-630	Wastes Containing polychlorinated biphenyls (PCBs)	Section was recodified. No other changes.
80-660	deleted	Liquids	Already included in operations section 81-140.
80-670	81-640	Tires	Clarification of statutory provisions as they apply to facilities storing tires.
80-680	deleted	Drums	Already included in operations section 81-140.
80-690	81-650	White Goods	Clarified storage requirements. Section was recodified.
80-700	81-660	Soil contaminated with petroleum products	Section was recodified. No other changes
80-710	deleted		Already included in prohibitions section 81-40.
Part IX	Part VII	Variance Procedures	This part describes the procedures to

			follow when requesting a variance from this regulation. The word “ rulemaking” has been removed. The words “petition” and “ petitioner” have been replaced with “application” and “applicant”.
80-730	81-700	General	Section was recodified. No other changes.
80-740	81-710	Solid Waste Classification Exemption Procedure	Section was recodified. No other changes.
80-750	81-720	Variance to Permitting Requirements	Section was recodified. No other changes.
80-760	deleted	Variance to groundwater protection standards	Deleted. Approval mechanism for Alternate Concentration Levels (ACLs) added to 81-250.
80-770	81-740	Variance to location of the groundwater monitoring system	Section was recodified. No other changes.
80-780	deleted	Variance to liner system design	Deleted. Incorporation of pre-approved liner system design in section 81-130. Added approval mechanisms for other liner systems.
80-790	81-760	Administrative Procedures	Removed part referencing informal fact finding because that option does not apply to variance processing. Section was recodified.

The changes to this regulation have been made to develop a more cohesive regulation. While many of the sections have remained the same except for recodification, others have been rearranged for clarity, conciseness, and efficiency.